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BEFORE THE ARIZONA CORPORATION COMMISSION

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JAN 17 2008

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T-03608A-07-0693

DOCKET NO. T-01051B-07-0693

IN THE MATTER OF QWEST
CORPORATION'S PETITION FOR
ARBITRATION AND APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT WITH ARIZONA
DIALTONE, INC. PURSUANT TO
SECTION 252(B) OF THE
COMMUNICATIONS ACT OF 1934, AS
AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996
AND APPLICABLE STATE LAWS

ARIZONA DIALTONE, INC.'S
RESPONSE TO QWEST
CORPORATION'S PETITION FOR
ARBITRATION

Arizona Dialtone, Inc. ("AZDT") hereby responds to the Petition for Arbitration (the "Petition") filed by Qwest Corporation ("Qwest"), as follows:

1. AZDT does not object to ¶¶1-2 of the Petition, which state generally that AZDT and Qwest are parties to an Interconnection Agreement ("ICA") and that the Federal Communications Commission has issued orders commonly referred to as the Triennial Review Order ("Order") and Triennial Review Remand Order ("TRRO") which impact the services Qwest is providing to AZDT under the ICA. AZDT also does not object to this Commission exercising its jurisdiction to arbitrate the disputes between the parties, and further, does not object to signing an appropriate TRRO Amendment.

2. AZDT does not object to ¶¶3-5 of the Petition, which identify the parties and their counsel.

1 3. AZDT does not object to ¶¶6-7 of the Petition, which describe the ICA and the
2 services Qwest was providing to AZDT prior to the TRRO.

3 4. AZDT does not object to ¶8 of the Petition, except that AZDT notes that it paid
4 Qwest for the UNE-P services during the one-year transition period at the rates invoiced by
5 Qwest, such that Qwest should now be estopped from collecting additional amounts from AZDT
6 for those services.

7 5. AZDT objects to those portions of ¶¶9-11 of the Petition that suggests that AZDT
8 has refused to sign a TRRO amendment. As Qwest is aware, AZDT has been willing to sign a
9 TRRO amendment so long as that amendment addresses not only the impact of the TRO and
10 TRRO on the ICA, but also, AZDT's ongoing billing disputes with Qwest which AZDT has
11 sought to resolve for several years without success.

12 6. With respect to ¶12 of the Petition, AZDT is without information to enable it to
13 admit or deny that it is the only CLEC in Arizona or in Qwest's fourteen states that has not signed
14 a TRRO amendment. AZDT disputes that its conduct "is contrary to federal law and amounts to
15 usurpation of a superior position in relation to other carriers that have conformed to the law."

16 7. AZDT does not object to ¶13 of the Petition, except to request that the Commission
17 rule in its favor on the disputed portions of the TRRO amendment.

18 8. AZDT does not object to ¶¶14-16 of the Petition regarding the Commission's
19 jurisdiction over the Petition and the arbitration process and timeline.

20 9. AZDT does not object to ¶17 of the Petition regarding the standards to be used by
21 the Commission in arbitrating this matter.

22 10. AZDT agrees generally with ¶¶18-19 of the Petition regarding the legal impact of
23 the TRRO and the implementing regulations.

24 11. With respect to ¶20 of the Petition, AZDT disputes that the "change of law"
25 provisions of the ICA are "unavailing" or inapplicable to this arbitration proceeding.
26

1 12. AZDT does not object to ¶21 of the Petition regarding the legal impact of the
2 decision by the District Court for the District of Arizona in the *Qwest Corporation v. Arizona*
3 *Corporation Commission* matter.

4 13. With respect to ¶22 of the Petition, AZDT agrees that the matters that can be
5 considered in this arbitration are limited to the matters raised in Qwest's Petition and AZDT's
6 Response thereto. AZDT identifies the additional issues which it believes can and should be
7 considered as part of this arbitration below.

8 14. AZDT does not dispute ¶23 of the Petition, except to dispute Qwest's assertion that
9 "no other issues have been raised." As noted in ¶18 below, there are other issues outstanding by
10 the parties not specifically addressed in the Petition.

11 15. AZDT does not dispute ¶24 of the Petition.

12 16. With respect to ¶¶25-29 of the Petition, which identify certain issues regarding the
13 TRRO amendment and the parties' positions on those issues, AZDT does not dispute Qwest's
14 recitation of the issues, but reserves the right to argue its position on those issues at the hearing in
15 this matter. Moreover, AZDT agrees that Appendix D to the Petition accurately reflects the
16 parties' respective positions on the TRRO language in dispute.

17 17. Paragraph 30 of the Petition is a conclusion and prayer for relief that does not
18 require a response.

19 18. In addition to those issues raised by Qwest in ¶¶25-29 of the Petition, AZDT
20 believes the following issues also should be addressed and resolved in this arbitration:


21 a. In its Complaint in Docket No. T-03608A-07-0693, Qwest primarily seeks to
22 "true up" the rates it charged AZDT for services from March 11, 2005 to date to the "transitional
23 rate" which Qwest claims the FCC mandated in the TRO and TRRO. See Complaint, ¶11 ("the
24 TRRO expressly recognizes that a true-up of the rates must occur"); Complaint, p.11, Prayer for
25 Relief. AZDT's position is that: (1) the true-up issue is within the scope of the instant arbitration;
26 (2) the Commission has jurisdiction to arbitrate the true-up issue, especially because, as Qwest

concedes, the true-up process originates from the TRRO itself; and (3) it would be far more efficient for the Commission to address all issues currently pending before it in this arbitration rather than address only the TRO and TRRO issues in this arbitration while reserving the true-up issues for separate proceedings before the Commission.

b. As mentioned above, AZDT has had ongoing billing and pricing disputes with Qwest. AZDT believes that these billing and pricing dispute issues can and should be heard in this arbitration. For purposes of identifying the issues and setting forth AZDT's position on those issues, AZDT refers the Commission to: (1) the April 21, 2006 letter from its former counsel to Qwest, attached hereto as **Exhibit A** (also attached as Exhibit E to Qwest's Complaint in Docket No. T-03608A-07-0693); and (2) the underscored language set forth in §I(A) of the proposed TRRO amendment. See Petition, Appendix D, §I(A).

RESPECTFULLY SUBMITTED this 14 day of January, 2008.

CHEIFETZ IANNITELLI MARCOLINI, P.C.

By 
 Claudio E. Iannitelli, Esq.
 Glenn B. Hotchkiss, Esq.
 Matthew A. Klopp, Esq.
 Attorneys for Arizona Dialtone, Inc.

1 ORIGINAL and 13 copies of the foregoing
hand-delivered this 17 day of January, 2008, to:

2 Docket Control
3 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
4 Phoenix, AZ 85007

5 COPY of the foregoing mailed
this 17 day of January, 2008, to:

6 Norman G. Curtright, Esq.
7 Qwest Corporation
20 East Thomas Road, 16th Floor
8 Phoenix, AZ 85012

9 By: 

10
11 N:\CLIENTS\Arizona Dialtone\Qwest 1183-13\Pleadings\Response to Petition for Arbitration - AZ.doc

Exhibit *A*

MORRILL & ARONSON P.L.C.
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FILE NUMBER

36063-0100

April 21, 2006

VIA FACSIMILE 303-295-7049
and FIRST CLASS MAIL

Andrew J. Creighton, Esq.
Corporate Counsel
Qwest Services Corporation
1801 California Street
10th Floor
Denver, CO 80202

**RE: Arizona Dialtone/Qwest Interconnection Agreement Negotiations and
Triennial Review Remand Order Issues**

Dear Mr. Creighton:

The following is a list of topics that Arizona Dialtone would like to explore in negotiations with Qwest over a revised Interconnection Agreement. Mr. Thomas W. Bade of Arizona Dialtone will be contacting Mr. Hanson of Qwest to set up direct negotiations between the business representatives. Arizona Dialtone's issues include:

1. Issues of the accuracy of Qwest's DUF records for prepaid IXC's and the use of local PRI for access.
2. Qwest's filing for an appropriate wholesale discount rate in Colorado to reflect avoided costs on retail PAL lines per FCC requirements.
3. Qwest's billing of long distance and other end user charges to Arizona Dialtone, including charges from Qwest or from other carriers.
4. Qwest's billing of Qwest Operator Services charges to Arizona Dialtone that were utilized by end users and not ordered by Arizona Dialtone.

April 21, 2006

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5. Qwest's billing for internet access minutes of use.
6. Billing of Qwest EUCL to Arizona Dialtone.
7. The accuracy of Qwest's billing and the costs and administrative expenses to correct it.
8. Providing Qwest unbundled services mandated under § 271, provisioning issues, and reasonable rates for them.
9. Qwest's requested "TRRO" amendment and conflicts with existing SGAT/tariff and other provisions, with the FCC's TRRO, and with § 271; and also, any possible reasoning for why Arizona Dialtone would voluntarily consent to it.

Arizona Dialtone's designated vice president level business contact person is Thomas W. Bade. Mr. Bade will be the primary contact person for Qwest's designated business person, Steve Hanson, to contact and meet with for business negotiations and discussions of these matters and Qwest's proposed topics. Mr. Bade can be contacted by Mr. Hanson at Arizona Dialtone, 7170 West Oakland Street, Chandler, Arizona 85226-2446, phone - (480) 705-7275.

Arizona Dialtone is looking forward to these negotiations with an expectation of reaching a mutually beneficial result. However, if the parties are unable to reach a satisfactory agreement, in order to bring this before the state commissions (which we previously discussed and confirmed in my April 7, 2006 fax to you) we need to be sure the issue is properly triggered under § 252(b)(1) of the 1996 Telecom Act. We are using the date of this letter (which is the CLEC's request for Interconnection) as the start date for calculating the window of between the 135th day to the 160th day during which we can bring the remaining interconnection issues to the state commission under § 252(b)(1). We need to be in agreement regarding timely filing, so please confirm this timing issue or let me know immediately if you disagree and believe we should use some other date.

Very truly yours,

MORRILL & ARONSON, P.L.C.



William D. Cleaveland

WDC/lk

cc: Mr. Thomas Bade
Martin A. Aronson, Esq.

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